IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Bail Appl..No. 3867 of 2007()

CRIME NO.235/2007 OF PATHANAPURAM POLICE STATION

PETITIONER / ACCUSED

FATHIMA MAJEED, W/O.ABDUL MAJEED,
ADHEENA MANZIL, NADAKKUNNU, PATHANAPURAM,
KOLLAM.

BY ADV. SRI.K.SANIL KUMAR
SRI.SUNIL.M.KARANY

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. THE SUB INSPECTOR OF POLICE,
PATHANAPURAM POLICE STATION,
THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.3867 of 2007

Dated this the 27th day of June 2007

O R D E R

Application for anticipatory bail. The petitioner is the first accused. She faces allegations under Section 420 I.P.C. The crux of the allegations against the petitioner is that she, along with the second accused, defrauded the defacto complainant by inducing her to part with an amount of Rs.40,000/- on the promise that her son shall be provided employment in the Indian Army. After taking the amount, the petitioner had executed an agreement undertaking to return the money, if the job were not provided. Thereafter, the second accused took the job aspirants to Bangalore, left them at a hotel and allegedly made himself scarce thereafter. The victim, with the two more, were left in the lurch there and they somehow returned to their native place. It is, thereafter, that the mother of one of the job seekers filed the present complaint and the F.I.R registered.

2. The learned counsel for the petitioner submits that the three job seekers had allegedly filed a complaint before the police in which no allegation whatsoever was raised against the petitioner herein. In these circumstances, it is submitted that the later complaint filed by the mother of one of the job seekers that the petitioner had defrauded her should not be readily swallowed.

3. The learned counsel, in these circumstances, pray that directions under Section 438 Cr.P.C may be issued in favour of the

petitioner. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the conduct of the petitioner executing a document in favour of the defacto complainant shows her complicity and greater involvement in the game. It cannot be lightly assumed at least at this stage that she is an innocent pawn at the hands of the second accused. When the three job seekers returned, their primary concern was about the inconvenience caused to them by the second accused, who took them to Bangalore and in these circumstances, the fact that the petitioner's complicity was not mentioned in Annexure A1 complaint (even assuming the same to be genuine and acceptable is not of any crucial relevance. I am satisfied, in the circumstances of this case that this is an eminently fit case where the petitioner, a woman, must appear before the investigating officer or the learned Magistrate and seek regular bail in the ordinary course. I do not find any circumstances which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

4. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007